



# HANDOUTS

## Judicial Dist. & Judicial Resources Study Committee

July 1, 2004

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**Background Statement - prepared by Joe McEniry, LSA, Legal Services  
Issued: November 17, 2003**

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November 17, 2003

**TO:** JUDICIAL DISTRICT AND JUDICIAL RESOURCES STUDY COMMITTEE

**FROM:** JOE McENIRY, LEGAL COUNSEL, LEGISLATIVE SERVICES AGENCY

**RE:** BACKGROUND STATEMENT

**I. Introduction.**

The charge of the Committee is to review issues relating to judicial district and judicial district redistricting, the allocation of judicial branch resources, and other related items listed in House File 694. This background statement discusses the history of the judiciary in Iowa and the current makeup of the Judicial Branch. References to the Code are to the 2003 Iowa Code and 2003 Iowa Code Supplement. Jennifer Acton, Fiscal Analyst within the Legislative Services Agency, prepared attachments B through G and the budget analysis.

**II. Attachments.**

The following documents are attached to the background statement:

Attachment A — The legislation creating the Committee.

Attachment B — Current judicial districts.

Attachment C — Current judicial election districts.

Attachment D — Judicial districts in surrounding states.

Attachment E — Judicial branch employees.

Attachment F — Counties without a clerk of court.

Attachment G — Iowa and surrounding states court facts.

**III. The Judicial Branch.****A. Judicial Districts.**

The Iowa Constitution specifically addresses redistricting and judicial districts. Under the Iowa Constitution, the General Assembly may reorganize and increase or diminish the

number of districts, or the number of judges... [and] [s]uch reorganization of the districts, or any change in the boundaries thereof, or increase or diminution of the numbers of judges, shall take place every four years thereafter, if necessary, and at no other times.<sup>1</sup> Later, the Constitution was amended to read that during any regular session of the General Assembly the state may be divided into necessary judicial districts, and the number of the districts and judges may be increased or diminished, and that no reorganization shall have the effect of removing a judge from office.<sup>2</sup> See Attachment B for the configuration of the current judicial districts.

Iowa had 21 judicial districts up until 1966.<sup>3</sup> However, an interim commission was appointed in 1963 to study the statewide administration, organization, and structure of the court system, with emphasis on the utilization of court personnel.<sup>4</sup> The commission ultimately recommended the number of judicial districts be reduced substantially, and that a uniform formula based upon caseload and population be adopted for determining the number of judgeships per district.<sup>5</sup> In 1967, the General Assembly adopted the commission's formula for determining the number of judgeships per district but only reduced the number of judicial districts from 21 to 18.<sup>6</sup> In 1968, Justice Harvey Uhlenhopp of the Iowa Supreme Court published a law review article, urging the General Assembly to further reduce the judicial districts.<sup>7</sup> Justice Uhlenhopp provided the following guidelines for reorganizing judicial districts: 1) urban areas should be combined with a rural area to provide a fair mixture, 2) district size should be related to today's methods of travel and designed to achieve the best judicial service at the lowest cost, 3) districts should be rounded and not have a panhandle, 4) larger cities should be as near the middle of the district as possible, 5) there should be equality of travel. In 1972, the number of judicial districts was reduced by the General Assembly from 18 districts to the present day eight districts.<sup>8</sup>

In 2003, the General Assembly and the Supreme Court established a more specific judicial redistricting process than the process set out in the Iowa Constitution. House File 694 was enacted, which established a process for the Supreme Court and the General Assembly to review the division of the state into judicial districts and judicial election districts beginning January 1, 2012, and every 10 years thereafter.<sup>9</sup> Under House File 694, if the Supreme Court determines that the administration of the district court and the judicial branch would be made more efficient and effective by reorganizing the judicial districts and judicial election districts, which may include expanding or contracting the total number of judicial districts and judicial election districts, the Supreme Court shall develop and submit to the General Assembly by November 15 a plan that reorganizes the judicial districts and judicial election districts.<sup>10</sup> Thereafter, the General Assembly must bring the Supreme Court's plan to a vote under a procedure or rule permitting no amendments by either house.<sup>11</sup>

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<sup>1</sup> Iowa Const. Art. V, § 10.

<sup>2</sup> See Iowa Const. amend. VIII.

<sup>3</sup> Iowa Code § 604.8 (1966).

<sup>4</sup> 1963 Iowa Acts ch. 376, § 2.

<sup>5</sup> 1967 Iowa Legislative Court Study Commission, Part III, pages 17-18.

<sup>6</sup> 1967 Iowa Acts ch. 399, § 1.

<sup>7</sup> Drake L. Rev. Vol. 18, No. 1.

<sup>8</sup> 1971 Iowa Acts ch. 261, § 1; Iowa Code § 602.18 (1973).

<sup>9</sup> Iowa Code Supplement § 602.6107.

<sup>10</sup> Iowa Code Supplement § 602.6107.

<sup>11</sup> Iowa Code Supplement § 602.6107.

## ***B. Judicial Election Districts and Apportionment of District Judges.***

Judicial election districts not encompassing the entire judicial district were first created in 1971.<sup>12</sup> There are currently 14 judicial election districts.<sup>13</sup> The election districts are in effect subdivisions of the judicial districts for the purposes of nomination, appointment, and election of judges.<sup>14</sup> Thus a potential nominee for a judgeship must reside in their particular judicial election district in order for that nominee to be considered for a judgeship in the judicial election district.<sup>15</sup> Most judges must stand for retention with the voters in their judicial election district every six years.<sup>16</sup> The judicial election district in the fourth, six, and seventh judicial districts encompasses the entire judicial district so any potential nominee must reside somewhere in the district.<sup>17</sup> However, the first, second, third, fifth, and eighth judicial districts have more than one election district, so potential nominees must not only reside in the judicial district but also in the judicial election district as well.<sup>18</sup>

Each judicial election district has a set number of judgeships based upon a specific formula set out in the Code.<sup>19</sup> However, upon the enactment of House File 694 in 2003, significant changes were made to the judgeship formula. If the Chief Justice of the Supreme Court determines a substantial disparity exists in the allocation of judgeships and judicial workload between judicial election districts, the Chief Justice may apportion the judgeship from the judicial election district where the vacancy occurs to another judicial election district based upon the substantial disparity finding.<sup>20</sup> However, a judgeship shall not be apportioned unless a majority of the Judicial Council approves the apportionment.<sup>21</sup>

See attachment C for a current map of judicial election districts and attachment D for surrounding states' judicial districts.

## ***C. Judicial Officers.***

### **1. Supreme Court.**

Under the Iowa Constitution, the General Assembly may increase or reduce the number of Supreme Court justices; however, the Supreme Court shall consist of at least three justices.<sup>22</sup> In 1998, House File 2471 was enacted, which reduced the number of Supreme Court justices from nine to seven by attrition.<sup>23</sup> In the same legislation the number of Court of Appeals judges was increased from six to nine judges.<sup>24</sup> Under the Iowa Constitution, the Supreme Court has appellate jurisdiction and constitutes a court for the corrections of errors at law.<sup>25</sup>

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<sup>12</sup> 1971 Iowa Acts ch. 261, § 1 (S.F. 417); Iowa Code § 602.18 (1973).

<sup>13</sup> Iowa Code Supplement § 602.6107(3).

<sup>14</sup> Iowa Code Supplement § 602.6109.

<sup>15</sup> Iowa Code § 602.6201(1).

<sup>16</sup> Iowa Code Supplement § 46.16.

<sup>17</sup> Iowa Code Supplement § 602.6107(3).

<sup>18</sup> Iowa Code Supplement § 602.6107(3).

<sup>19</sup> Iowa Code § 602.6201(3).

<sup>20</sup> Iowa Code Supplement § 602.6201(11).

<sup>21</sup> Iowa Code Supplement § 602.6201(11).

<sup>22</sup> Iowa Const. Art. V, § 10, and Art. V, § 2.

<sup>23</sup> 1998 Iowa Acts ch. 1184, § 1 (H.F. 2471); Iowa Code § 602.4101; and generally Iowa Const. Art. V, § 10.

<sup>24</sup> 1998 Iowa Acts ch. 1184, § 2 (H.F. 2471); Iowa Code § 602.5102.

<sup>25</sup> Iowa Const. Art. V, § 4.

## **2. Court of Appeals.**

The Court of Appeals was created in 1976.<sup>26</sup> The Court of Appeals first consisted of five judges, the size then increased to six in 1983, and finally the number of judges was increased to its current size of nine judges in 1998, which coincided with the reduction of two justices from the Supreme Court.<sup>27</sup> The jurisdiction of the Court of Appeals is limited to the cases appealed to the Supreme Court and subsequently transferred by the Supreme Court to the Court of Appeals for consideration.<sup>28</sup> If the case is transferred to the Court of Appeals, the Supreme Court does not retain jurisdiction over the case unless a party files an application for further review after a decision in the Court of Appeals case.<sup>29</sup>

## **3. District Court Judges.**

There are currently 116 district court judges in the state.<sup>30</sup> The district court judge has jurisdiction in all actions, proceedings, and remedies, civil, criminal, probate, and juvenile except in cases where jurisdiction is conferred upon another court or administrative body.<sup>31</sup> See attachment E for the distribution of district court judges among the judicial districts.

## **4. District Associate Judges.**

There are 54 district associate judges in Iowa.<sup>32</sup> A district associate judge has jurisdiction in criminal cases involving a class "D" felony or lesser offense, civil matters where the amount in controversy does not exceed \$10,000, in involuntary commitment, treatment, and hospitalization proceedings under Code chapters 125 (substance abuse) and 229 (mental illness).<sup>33</sup> See attachment E for the distribution of district associate judges among the judicial districts.

## **5. Magistrates.**

There are 134 magistrates in Iowa.<sup>34</sup> Magistrates have jurisdiction in simple misdemeanors, traffic and ordinance violations, and preliminary hearings, and magistrates admitted to practice law in Iowa have jurisdiction over involuntary commitment, treatment, and hospitalization proceedings.<sup>35</sup> See attachment E for the distribution of magistrates among the judicial districts.

## **6. Associate Juvenile Judges.**

There are 12 associate juvenile judges serving in Iowa.<sup>36</sup> An associate juvenile judge has jurisdiction over most criminal offenses involving a child who is alleged to have committed a delinquent act, child in need of assistance cases, and termination of parent-child relationship

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<sup>26</sup> 1976 Iowa Acts ch. 1241, § 1 (S.F. 1092); and generally Iowa Const. Art. V, § 1.

<sup>27</sup> See 1983 Iowa Acts ch. 240, § 5, increasing the judges from 5 to 6 judges, and 1998 Iowa Acts ch. 1184, § 1 (H.F. 2471), increasing the judges from 6 to 9 judges.

<sup>28</sup> Iowa Code §§ 602.4102(2) and 602.5103(3).

<sup>29</sup> Iowa Code § 602.4102(2) and (4).

<sup>30</sup> Iowa Code § 602.6201(10).

<sup>31</sup> Iowa Code § 602.6101; Iowa Const. Art. V § 6.

<sup>32</sup> See generally Iowa Code §§ 602.6301 and 602.6302. Based upon a population formula in Iowa Code § 602.6301, there should be 35 district associate judges, but 19 district associate judgeships were created in lieu of magistrate positions.

<sup>33</sup> Iowa Code § 602.6306.

<sup>34</sup> Judicial Branch. Iowa Code § 602.6401 authorizes 191 magistrates, but 57 magistrate positions have been substituted for 19 district associate judge positions pursuant to Iowa Code § 602.6302.

<sup>35</sup> Iowa Code § 602.6405.

<sup>36</sup> Judicial Branch.

cases.<sup>37</sup> The jurisdiction of the juvenile court may be exercised by a district court judge or a district associate judge.<sup>38</sup>

## **7. Senior Judges.**

There are currently 21 judges serving as a senior judge.<sup>39</sup> A senior judge is a retired judge who agrees to perform judicial duties as assigned by the Supreme Court for an aggregate period of 13 weeks during a successive 12-month period.<sup>40</sup> A senior judge receives a nominal salary set by the General Assembly and is also compensated by a mix of increased retirement and health care benefits until the age of 78.<sup>41</sup>

### ***D. Other Court Personnel.***

There are currently 1,763 employees of the Judicial Branch, including judges. See attachment C for the distribution of judicial branch employees among the judicial districts. There are 134 employees of the Supreme Court, Court of Appeals, and State Court Administration.<sup>42</sup> As of August 2003, 16 counties did not have a clerk of the district court and two counties had an acting clerk of the district court.<sup>43</sup> However, as of July 1, 2003, a clerk of the district court may serve as a clerk in four contiguous counties.<sup>44</sup> See attachment F for a map of the state illustrating the counties without a clerk of the district court or who have an acting clerk.

### ***E. Budget.***

- The Actual FY 2000-2001 General Fund appropriation to the Judicial Branch for the operating budget and the Judicial Branch Retirement Fund was \$116,623,446.<sup>45</sup> Of that amount, \$112,124,096 was for the operating budget and \$4,499,350 was for the retirement fund.<sup>46</sup>
- The Actual FY 2001-2002 General Fund appropriation to the Judicial Branch for the operating budget and Judicial Branch Retirement Fund was \$114,395,200.<sup>47</sup> Of that amount, \$111,356,002 was for the operating budget and \$3,039,198 was for the retirement fund.<sup>48</sup>
- The Actual FY 2002-2003 General Fund appropriation to the Judicial Branch for the operating budget and Judicial Branch Retirement Fund was \$111,194,267.<sup>49</sup> Of that

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<sup>37</sup> Iowa Code §§ 232.8, 232.61, and 232.109.

<sup>38</sup> Iowa Code § 602.7101.

<sup>39</sup> Judicial Branch.

<sup>40</sup> Iowa Code § 602.9203(2)(c).

<sup>41</sup> Iowa Code § 602.9204.

<sup>42</sup> Judicial Branch.

<sup>43</sup> Judicial Branch. The counties without a clerk of the district court include the following: Adair, Allamakee, Cedar, Clarke, Franklin, Grundy, Hamilton, Jackson, Jones, Kossuth, Marion, Mills, Mitchell, Monona, Sioux, and Worth. Acting clerks of the district court are in Clinton, Lee, and Scott counties.

<sup>44</sup> Iowa Code Supplement § 602.1215.

<sup>45</sup> Legislative Services Agency, Fiscal Division, Jennifer Acton, September 2003.

<sup>46</sup> Legislative Services Agency, Fiscal Division, Jennifer Acton, September 2003.

<sup>47</sup> Legislative Services Agency, Fiscal Division, Jennifer Acton, September 2003.

<sup>48</sup> Legislative Services Agency, Fiscal Division, Jennifer Acton, September 2003.

<sup>49</sup> Legislative Services Agency, Fiscal Division, Jennifer Acton, September 2003.

amount, \$109,154,603 was for the operating budget and \$2,039,664 was for the retirement fund.<sup>50</sup>

- The estimated FY 2003-2004 General Fund appropriation to the Judicial Branch for the operating budget and Judicial Branch Retirement Fund is \$119,877,526.<sup>51</sup> Of that amount, \$117,837,862 is for the operating budget and \$2,039,664 is for the retirement fund.<sup>52</sup>

See attachment G for a comparison of judicial branch budgets from surrounding states. Please note that court personnel in other states may be funded at the local level, and that attachment G is for illustrative purposes and not a comprehensive comparison between the states.

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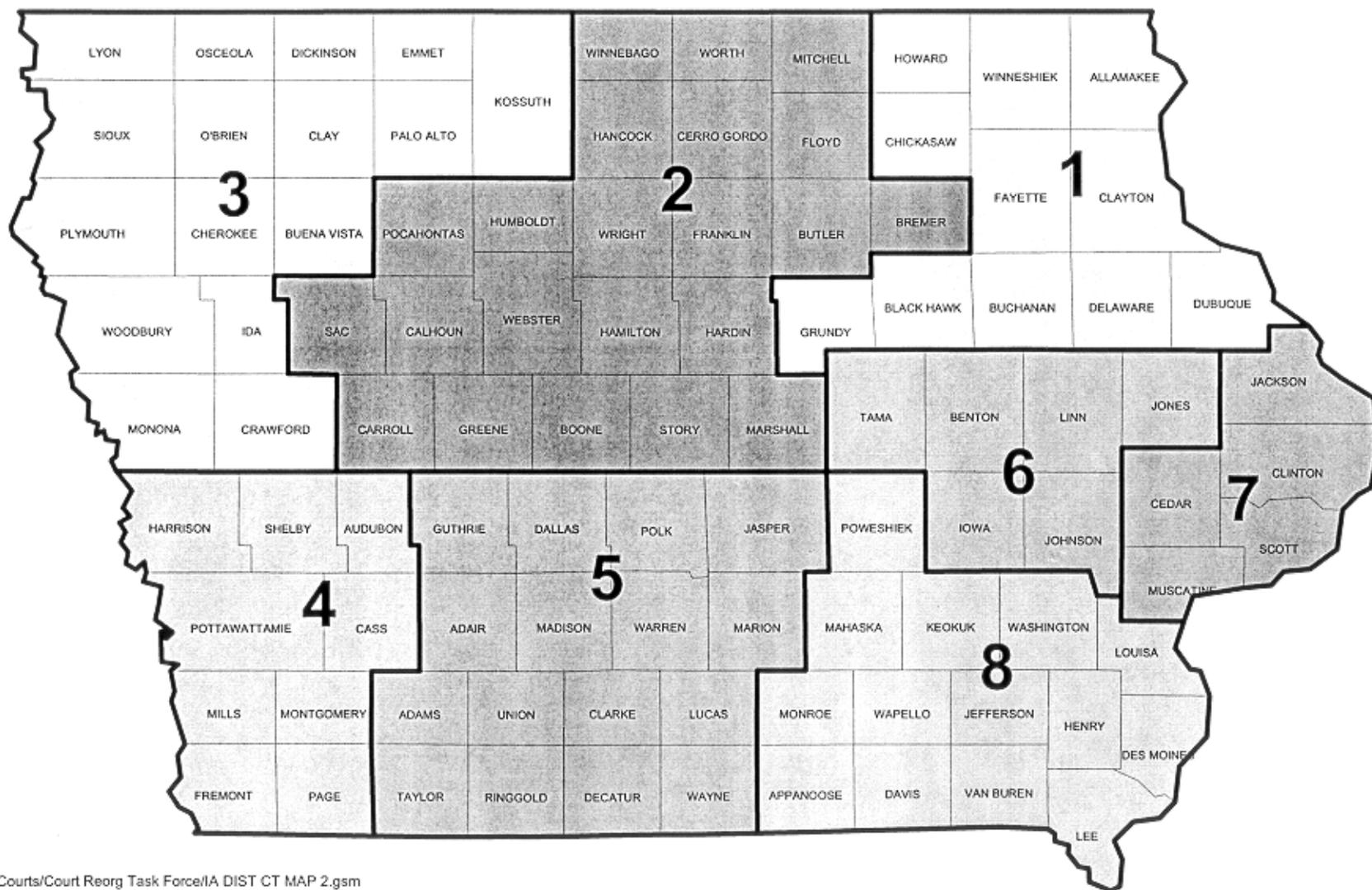
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<sup>50</sup> Legislative Services Agency, Fiscal Division, Jennifer Acton, September 2003.

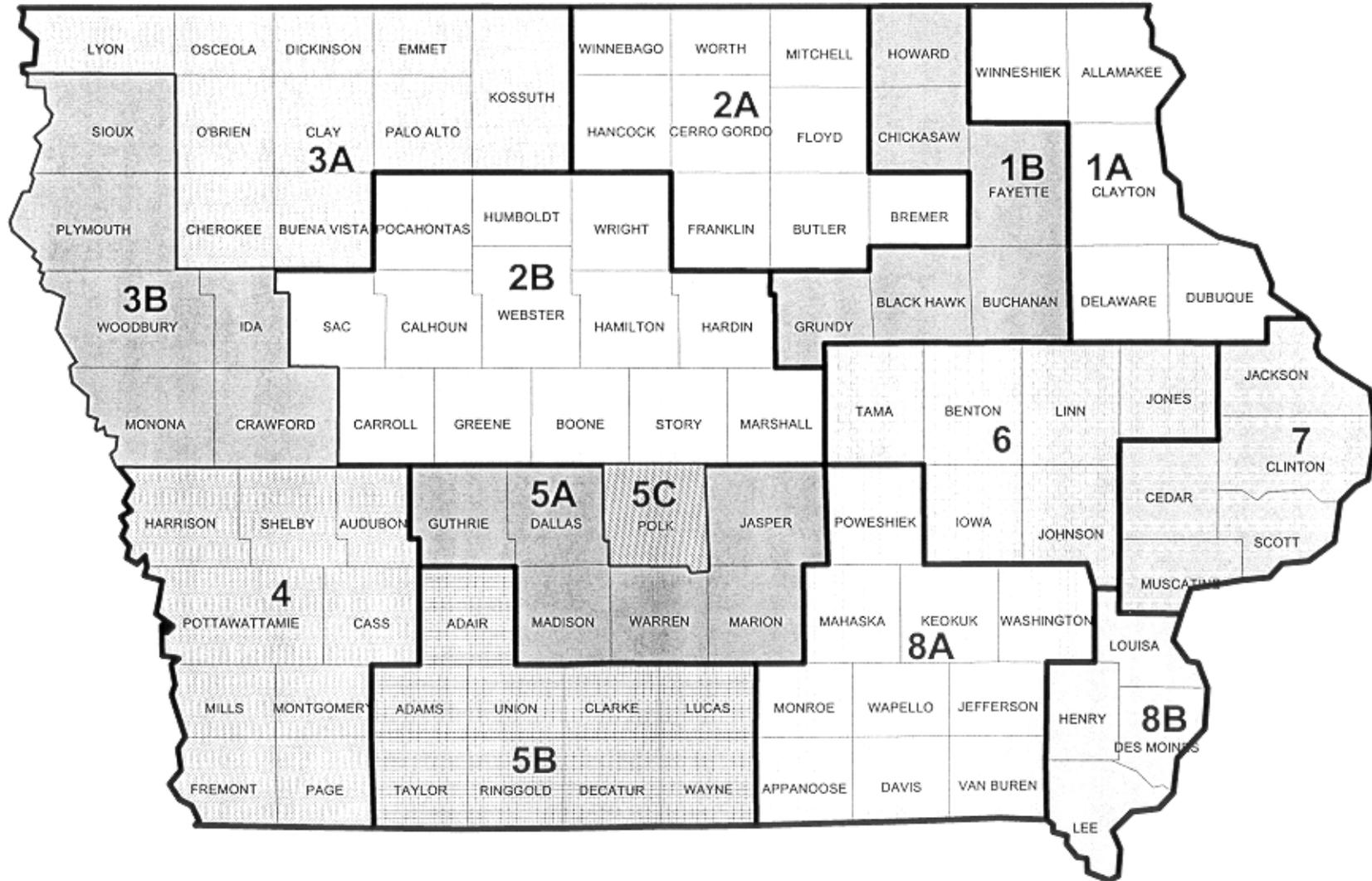
<sup>51</sup> Legislative Services Agency, Fiscal Division, Jennifer Acton, September 2003.

<sup>52</sup> Legislative Services Agency, Fiscal Division, Jennifer Acton, September 2003.

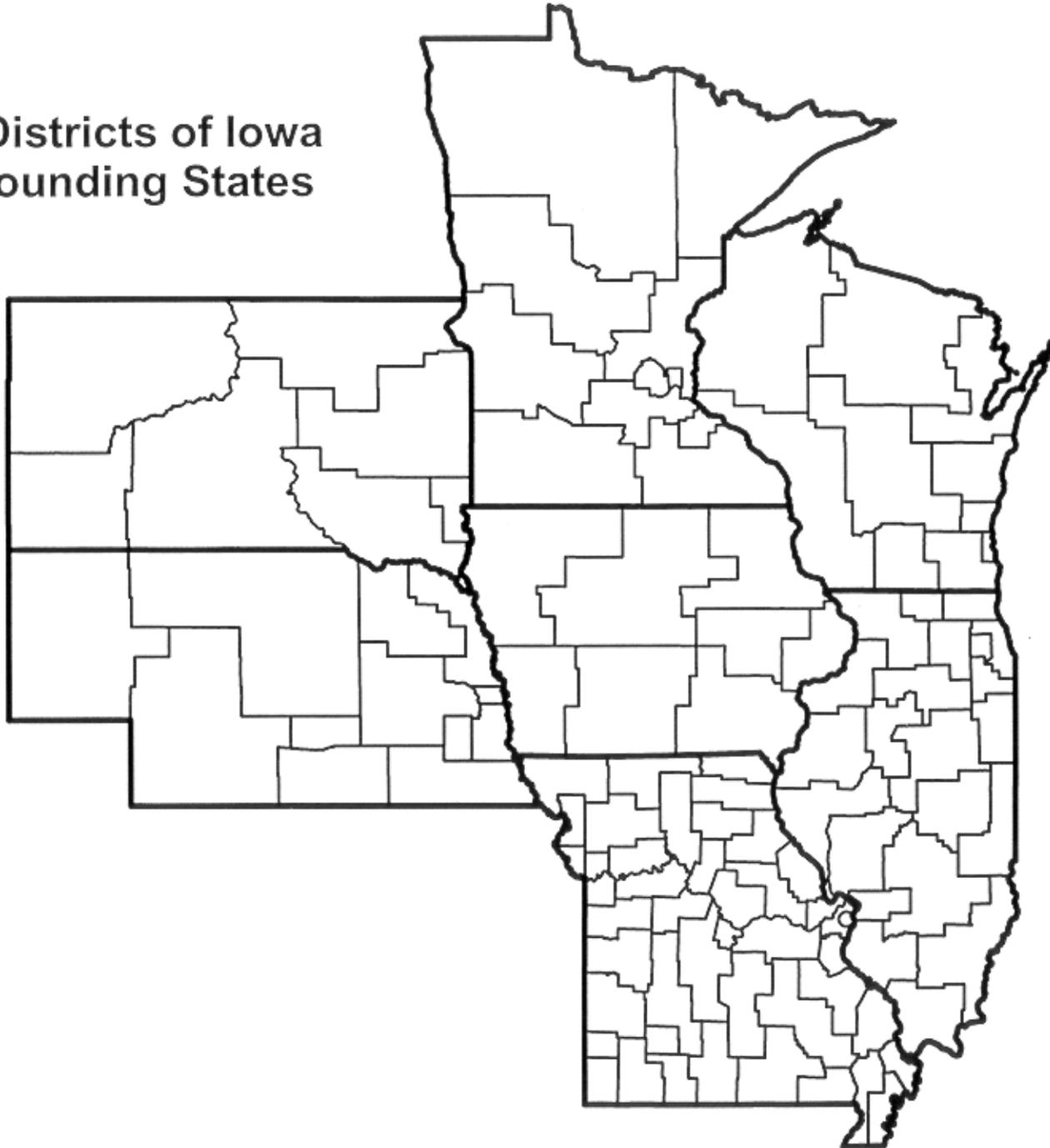
# Iowa Judicial Districts



# Judicial Election Districts



## Judicial Districts of Iowa and Surrounding States



## FY 2004 Judicial Branch Staff (FTEs) by District

<u>Judicial Officers</u>	<u>Total</u>	<u>Dist 1</u>	<u>Dist 2</u>	<u>Dist 3</u>	<u>Dist 4</u>	<u>Dist 5</u>	<u>Dist 6</u>	<u>Dist 7</u>	<u>Dist 8</u>
District Court Judges	116.0	14.0	18.0	13.0	7.0	28.0	12.0	12.0	12.0
District Associate Court Judges	54.0	7.0	7.0	7.0	3.0	12.0	6.0	5.0	7.0
Associate Juvenile Judges	12.0	3.0	3.0	2.0	0.0	2.0	1.0	0.0	1.0
Associate Probate Judge	1.0					1.0			
Magistrates	134.0	17.0	32.0	15.0	15.0	15.0	13.0	13.0	14.0
Senior Judges	21.0	1.0	1.0	6.0	1.0	6.0	0.0	1.0	5.0
<u>Total Judicial Officers</u>	<u>338.0</u>	<u>42.0</u>	<u>61.0</u>	<u>43.0</u>	<u>26.0</u>	<u>64.0</u>	<u>32.0</u>	<u>31.0</u>	<u>39.0</u>
District Court Administration	179.0	27.5	18.3	15.5	9.1	49.4	26.4	20.0	13.0
Court Reporters	180.0	24.0	28.0	20.0	10.0	42.0	19.0	17.0	20.0
Juvenile Court Services	272.2	41.9	34.0	33.8	23.0	54.5	31.0	29.0	25.0
Clerks of Court	793.9	93.6	124.8	101.7	57.1	159.2	93.0	81.3	83.4
<u>Totals By District</u>	<u>1763.2</u>	<u>228.9</u>	<u>266.0</u>	<u>214.0</u>	<u>125.2</u>	<u>369.0</u>	<u>201.4</u>	<u>178.3</u>	<u>180.4</u>

Counties with no Clerk of Court as of August 2003 are as follows:

Allamakee, Grundy, Franklin, Hamilton, Mitchell, Worth, Kossuth, Monona, Sioux, Mills, Adair, Clarke, Marion, Jones, Cedar, and Jackson. Scott and Lee have "acting clerks" at this time.



## Iowa and Surrounding States Court Fact Sheet

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|---------------------|---|
| <b>Illinois</b>     | <ul style="list-style-type: none"> <li>▪ 102 Counties</li> <li>▪ 22 Judicial Circuits</li> <li>▪ 944 authorized and filled judgeships with 413 in Cook County</li> <li>▪ Annual Budget</li> <li>▪ Estimated FY 2004 General Fund appropriation \$228.1 million and 2,254.0 FTE positions. Total FY 2004 funding \$298.3 million.</li> <li>▪ Pending legislation to increase from 22 to 23 circuits in FY 2006.</li> </ul> |
| <b>Iowa</b>         | <ul style="list-style-type: none"> <li>▪ 99 Counties; 100 Courthouses</li> <li>▪ 8 Judicial Districts</li> <li>▪ 138 authorized judgeships from the formula and 116 are currently filled.</li> <li>▪ Annual Budget</li> <li>▪ Estimated FY 2004 General Fund appropriation \$115.4 million and 1,897.3 FTE positions.</li> </ul>  |
| <b>Missouri</b>     | <ul style="list-style-type: none"> <li>▪ 114 Counties</li> <li>▪ 45 Judicial Circuits</li> <li>▪ 139 authorized and filled Circuit Court judgeships</li> <li>▪ Annual Budget</li> <li>▪ Estimated FY 2004 General Fund appropriation \$137.5 million and 3,238.1 FTE positions. There are 161.8 FTE positions funded at the County level.</li> </ul>  |
| <b>Nebraska</b>     | <ul style="list-style-type: none"> <li>▪ 93 Counties</li> <li>▪ 12 Judicial Districts</li> <li>▪ 55 authorized and filled judgeships</li> <li>▪ Biennial Budgeting</li> <li>▪ Estimated FY 2004 General Fund appropriation \$55.0 million and 55.0 FTE positions, which are judges only. Staff FTE positions are on the County payroll.</li> </ul>  |
| <b>South Dakota</b> | <ul style="list-style-type: none"> <li>▪ 66 Counties</li> <li>▪ 7 Judicial Circuits</li> <li>▪ 38 authorized and filled judgeships</li> <li>▪ Annual Budget</li> <li>▪ Estimated FY 2004 General Fund appropriation \$26.4 million and 475.8 FTE positions.</li> </ul>  |
| <b>Wisconsin</b>    | <ul style="list-style-type: none"> <li>▪ 72 Counties</li> <li>▪ 10 Judicial Districts</li> <li>▪ 241 authorized and filled judgeships</li> <li>▪ Biennial Budgeting</li> <li>▪ Estimated FY 2004 General Fund appropriation \$90.3 million and 605.0 FTE positions.</li> </ul>  |